

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE BOARD OF TRUSTEES OF THE  
CARPENTERS HEALTH AND WELFARE TRUST  
FUND FOR CALIFORNIA, et al.,

No. C 08-1067 CW

Plaintiffs,

DEFAULT JUDGMENT

v.

SAUL M. CRUZ, individually and doing  
business as SMC MODULAR INSTALLATION;  
MAGDALENA L. CRUZ, individually and  
doing business as SMC MODULAR  
INSTALLATION; SMC MODULAR  
INSTALLATION; and DOES 1 THROUGH 10,  
inclusive,

Defendants.

For the reasons set forth in Magistrate Judge Joseph C.  
Spero's Report and Recommendation Re Plaintiffs' Motion for Default  
Judgment filed July 28, 2008, and adopted by this Court,

IT IS ORDERED AND ADJUDGED that default judgment is entered  
against Defendants Saul M. Cruz, Magdalena L. Cruz and SMC Modular  
Installation.

The following arbitration awards are confirmed in their  
entirety:

(1) Decision and Award of Arbitrator Gerald R. McKay on  
Grievance No. 07-141, issued on November 15, 2007;

1 (2) Decision and Award of the Board of Adjustment on Grievance  
2 No. 07-165, signed by Board Member Fred R. Wright on January  
3 9, 2008; and

4 (3) Decision and Award of the Board of Adjustment on Grievance  
5 No. 07-166, signed by Board Member Fred R. Wright on January  
6 9, 2008.

7 As provided in these confirmed arbitration awards and the  
8 Court's order adopting the magistrate judge's Report and  
9 Recommendation, Plaintiffs shall recover from Defendants the sum of  
10 \$320,142.42, comprising \$38,554.11 in unpaid wages and waiting  
11 time; \$271,799.71 in unpaid fringe benefits, audit costs and  
12 liquidated damages; \$900 in arbitration costs; \$5,371.25 in  
13 attorneys' fees; and \$3,517.35 in litigation costs.

14 In accordance with the terms of the confirmed arbitration  
15 awards, Defendants must submit to an audit of their books and  
16 records by representatives of the Northern California Carpenters  
17 Trust Funds for the period of March 10, 2005 through the date of  
18 audit entry. In connection with the audit, Defendants must submit  
19 to the auditors the records referred to in: Section 21 of the  
20 Forty-six Northern California Counties Carpenters Master Agreement  
21 for Northern California; Article IV, Section 8 of the Carpenters  
22 Health and Welfare Trust Agreement; Article IV, Section 6 of the  
23 Carpenters Pension Trust Agreement; Article VII, Section 4 of the  
24 Carpenters Vacation Holiday Trust Agreement; and Article IV,  
25 Section 6 of the Carpenters Apprentice Trust Agreement. These  
26 documents include, but are not necessarily limited to, the  
27 following:

28 (a) California contribution returns and reports of wages

(Form DE-3);

(b) Federal contribution returns and reports of wages;

(c) Time cards for all employees;

(d) Payroll journals;

(e) Workers compensation reports;

(f) Individual earnings records;

(g) Federal Forms W-2, W-4, 1096 and 1099;

(h) Trust fund reports for other trades;

(i) General check registers;

(j) Check stubs or vouchers;

(k) Bank statements and cancelled checks;

(l) Job costs records and copies of all contracts;

(m) General ledger and cash receipts journals;

(n) Individual, corporate and/or partnership tax returns;

(o) Vendors' invoices;

(p) Records of related entities; and

(q) Other books and records as may be necessary to conduct appropriate testing to assume the accuracy of records that have been reviewed.

The Court retains jurisdiction over this matter to ensure compliance with this judgment and to confirm any amended arbitration award that may be issued as a result of future audits.

Dated at Oakland, California, this 13th day of August, 2008.

RICHARD W. WIEKING  
Clerk

By:

  
SHEILAH CAHILL  
Deputy Clerk